

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION****NOTICE OF PENALTIES INCURRED AND DUE  
FOR VIOLATIONS OF LAWS AND RULES****PENALTY ASSESSMENT: TV-210862  
PENALTY AMOUNT: \$!6,300**

Smooth Moves LLC  
516 E 1<sup>st</sup> Ave., Ste. C  
Kennewick, WA 99336

The Washington Utilities and Transportation Commission (Commission) believes Smooth Moves LLC (Smooth Moves or Company) violated Washington Administrative Code (WAC) 480-15-555, Criminal Background Checks for Prospective Employees; WAC 480-15-560, Equipment Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 393 - Parts and Accessories Necessary for Safe Operation and 49 CFR Part 396- Inspection, Repair and Maintenance; and WAC 480-15-570, Driver Safety Requirements, which adopts 49 CFR Part 391 -Qualification of Drivers and 49 CFR Part 395- Hours of Service of Drivers.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On November 8, 2021, Commission Motor Carrier Investigator Edward Steiner completed a routine safety investigation of Smooth Moves and documented the following violations:

- **Twelve violations of WAC 480-15-555 - Failing to conduct or retain paperwork containing criminal background check for a household goods carrier in the state of Washington as required.** Smooth Moves failed to conduct a criminal background check prior to hiring employees Anthony Hernandez, Bruce Egbert, Seth Ross, Brandon Vanwinkle, Matthew Mason, Jordan Beachene, Jacob Montano, Mike Sage, Gregory Carter, Timothy Navarro, Pedro Montoya, and Devon Keil.
- **One hundred forty-five violations of 49 CFR § 391.45(a)- Using a driver not medically examined and certified.** The Company allowed drivers Jared Boleware and Jason Bradley to operate a commercial motor vehicle (CMV) without a valid medical certificate on 145 occasions between March 30 and September 23, 2021.
- **Four violations of 49 CFR § 391.51(a) - Failing to maintain driver qualification file on each driver employed.** Smooth Moves failed to maintain driver qualification files for Jason Bradley, Jared Boleware, Gregory Carter, and Daniel Lane.

- **Two violations of 49 CFR § 393.9(a) - Inoperative brake lamps.** Commission staff (Staff) discovered two CMVs with both rear stop lamps not working.<sup>1</sup> These CMVs were placed out-of-service.
- **One hundred fifty violations of 49 CFR § 395.S(a)(1)- Failing to require a driver to prepare a record of duty status.** The Company failed to require Jared Boleware, Jason Bradley, Gregory Carter, Daniel Lane, and Mathew Mason to complete a record of duty status on 150 occasions between May 1 and July 30, 2021.
- **One violation of 49 CFR § 396.3(a)(1) - Brakes out of service.** Staff discovered a CMV with the number of defective brakes equal to or greater than 20 percent of the service brakes on the vehicle.<sup>2</sup> This CMV was placed out-of-service.
- **Five violations of 49 CFR § 396.3(b)- Failing to keep minimum records of inspection and vehicle maintenance.** Smooth Moves failed to maintain a vehicle maintenance file for all CMVs.

The Commission considered the following factors **in** determining the appropriate penalties for these violations:

- I. **How serious or harmful the violations are to the public.** The violations noted are serious and potentially harmful to the public. Household goods moving companies that: (1) fail to conduct criminal background checks on their employees, (2) use drivers that are not medically examined and certified, (3) fail to maintain driver qualification files, (4) fail to maintain records of duty status, (5) fail to keep minimum records of inspection and vehicle maintenance, and (6) use CMVs in need of repair, put their customers, their customers' belongings, and the traveling public at risk. These violations present significant safety concerns.
2. **Whether the violations were intentional.** Considerations include:
  - Whether the Company ignored Staff's previous technical assistance; and
  - Whether there is clear evidence through documentation or other means that shows the Company knew of and failed to correct the violation.

On February 25, 2011, the Commission received the Company's application for household goods moving authority. In the application, Kenneth Teasdale, owner of Smooth Moves, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety laws and regulations.

On April 26, 2011, Kenneth Teasdale attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

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<sup>1</sup> Vehicle Identification Numbers 1HTMMAAM05H687151 and IGDL7C1355F515109.

<sup>2</sup> Vehicle Identification Number 3ALACWDT7GDGV9110.

On October 11, 2011, Staff completed a routine safety investigation of Smooth Moves, resulting in a "Satisfactory" safety rating. Staff provided technical assistance to the Company during this safety investigation.

On July 16, 2014, Kenneth Teasdale attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Smooth Moves did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** The Company has not provided Staff with evidence that it corrected the violations.
6. **The number of violations.** Staff identified 17 violation types with a total of 333 individual occurrences during the routine safety investigation of Smooth Moves. Of those violations, Staff identified seven violation types with a total of 319 individual occurrences that warrant penalties in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Smooth Moves reported traveling 32,392 miles in 2020. These safety violations presented a public safety risk.
8. **The likelihood of recurrence.** Staff provided technical assistance with specific remedies to help the Company assess how well its safety management controls support safe operations and how to begin improving its safety performance. Smooth Moves was cooperative during the safety investigation and expressed a desire to come into compliance with applicable safety regulations. Staff believes the likelihood of recurrence is low if the Company prioritizes safe operations.
9. **The Company's past performance regarding compliance, violations, and penalties.** On April 29, 2011, Smooth Moves was penalized \$10,000 in Docket TV-101916 for operating as a household goods carrier prior to obtaining the required permit. The Commission suspended the entire penalty for a period of one year, subject to the conditions that Smooth Moves maintained its household goods permit and complied with all applicable laws and regulations. Due to the Company's compliance, the \$10,000 suspended penalty was waived on May 16, 2012.  
  
Smooth Moves has no history of penalties for safety violations with the Commission.
10. **The Company's existing compliance program.** Kenneth Teasdale is responsible for the Company's safety compliance program.

11. **The size of the Company.** Smooth Moves operates five CMVs and employs eight drivers. The Company reported \$766,048 in gross revenue for 2020.

The Commission's Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue mandatory penalties for each occurrence of a first-time violation.<sup>3</sup> The Commission generally will assess penalties by violation category, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service" criteria and for repeat violations of critical regulations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Smooth Moves \$16,300 (Penalty Assessment), calculated as follows:

- Twelve violations of WAC 480-15-555 - Failing to conduct or retain paperwork containing criminal background check for a household goods carrier in the state of Washington as required. The Commission assesses a penalty of \$100 for each occurrence of this critical violation, for a total of \$1,200.
- One hundred forty-five violations of 49 CFR § 391.45(a)- Using a driver not medically examined and certified. The Commission assesses a penalty of \$100 for each occurrence of this critical violation, for a total of \$14,500.
- Four violations of 49 CFR § 391.51(a)- Failing to maintain driver qualification file on each driver employed. The Commission assesses a "per category" penalty of \$100 for these critical violations.
- Two violations of 49 CFR § 393.9(a)- Inoperative brake lamps. The Commission assesses a penalty of \$100 for each occurrence of this out-of-service violation, for a total of \$200.
- One hundred fifty violations of 49 CFR § 395.8(a)(1) - Failing to require a driver to prepare a record of duty status. The Commission assesses a "per category" penalty of \$100 for these critical violations.
- One violation of 49 CFR § 396.3(a)(1) - Brakes out of service. The Commission assesses a penalty of \$100 for this out-of-service violation.
- Five violations of 49 CFR § 396.3(b) - Failing to keep minimum records of inspection and vehicle maintenance. The Commission assesses a "per category" penalty of \$100 for these critical violations.

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<sup>3</sup> Docket A-120061 - Enforcement Policy of the Washington Utilities & Transportation Commission- Section V.

This information, if proven at a hearing and not rebutted or explained, is sufficient to support the Penalty Assessment.

Your penalty is due and payable now. If you believe any or all of the violations did not occur, you may deny committing the violation(s) and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for any or all of the violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request to contest the violation(s) or for mitigation of the penalty must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. *See* RCW 81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation(s) or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of their decision.

**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the amount due.
- Contest the occurrence of the violation(s).
- Admit the violations but request mitigation of the penalty amount.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal **within FIFTEEN (15) days** after you receive this Penalty Assessment. If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

**If you do not act within 15 days**, the Commission may take additional enforcement action, including but not necessarily limited to suspending or revoking your certificate to provide regulated service, assessing additional penalties, or referring this matter to the Office of the Attorney General for collection.

DATED at Lacey, Washington, and effective December I, 2021.

*Is/Rayne Pearson*  
RAYNE PEARSON  
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-210862

PLEASE NOTE: You must complete and sign this document and send it to the Commission within 15 days after you receive the Penalty Assessment. Use additional paper if needed. I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

- 1. Payment of penalty. I admit that the violations occurred and enclose \$16,300 in payment of the penalty.
2. Contest the violation(s). I believe that the alleged violation(s) did not occur for the reasons I describe below (if you do not include reasons supporting your contest here, your request will be denied):

D a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.

OR b) I ask for a Commission decision based solely on the information I provide above.

tzl3. Application for mitigation. I admit the violations, but I believe that the penalty should be reduced for the reasons set out below (if you do not include reasons supporting your application here, your request will be denied): c, L, W

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.

OR b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: 2-12-11 [month/day/year], at [city, state]

Kenny J. J. L.L.C. (r)(>JQ,) L.L.C. Signature of Applicant

RCW 9A.72.020:

"Peijury in the first degree.(!) A person is guilty ofpeijury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Peijury in the first degree is a class B felony."

Dear Utilities and Transportation Company:

This letter is in reference to the penalty assessment to my company, Smooth Moves LLC with the reference number of TV-210862. Our inspector was Edward Steiner and I want to point out that he was a very helpful representative of this whole process.

I have successfully operated this company for over a decade and have been prideful in the thought that I run this business by the book, contrary to the other local companies! This abruptly came to an end upon the results of the inspection conducted by Mr. Steiner. Since the inspections we have worked diligently as a company to correct the violations and get in good terms with the UTC and will continue to do so. Appropriate policies have been adopted and will stay in effect from here on out. Myself and my management team will be REQUIRED to attend at least one training per year to keep up with the changes and make sure we are fully in compliance with the rules and regulations. Any new hires will be signed up for the next available class.

My hope is that you will grant my request to mitigate my penalties as we have adopted and changed the way we do things immediately and will strive to be the company in this area that abides by all the rules and regulations. We are a small company in a small area and the penalty assessment of \$16,300 would be a big hit to the business and effect all of us. We are and will be ready for a reinspect anytime!

Thanks, and have a great day.

A handwritten signature in black ink, appearing to read 'Kenny Teasdale', with a long horizontal stroke extending to the right.

Kenny Teasdale

President, Smooth Moves LLC